IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 2374 of 2005

Between:

M/s.Bhavani Venkateswara Rice Mill, Narsapur Village,

Siddipet Mandal, Medak District, rep., byits Managing

Director, T.Kondaiah, s/o T.Chandraiah,

aged about 40 years, Narsapur, Siddipet Mandal, Medak

District.

..... PETITIONER

AND

1 The Chief Engineer, Electricity, Hyderabad Zone,

A.P.TRANSCO, Mint Compound, Hyderabad.
2 The Superintending Engineer, Assessments, A.P.TRANSCO,
Hyderabad.
3 The Assistant Divisional Engineer, Operations,

A.P.TRANSCO,Siddipet, Medak District.
4 The Assistant Accounts Officer, E.R.O., Siddipet, Medak

District.
5 The Addl.Asst.Engineer, (Operations-I), Town-I, Siddipet,

Medak District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction more particularly one in the nature of writ of mandamus

declaring the impugned proceedings Lr.No.AAO/ERO/Supdt/BSHV/D.no.621/2005 dated 01-02-2005 of the 5th respondent is illegal, arbitrary and in violation of principles of natural justice and consequently direct the respondents to return the amounts paid by the petitioner.

Counsel for the Petitioner: MR.GANDURI NAGESWARA RAO

Counsel for the Respondents: SMT.M.VINOBHA DEVI

The Court at the admissions stage made the following :

ORDER:

The petitioner was issued an order of provisional assessment and thereafter, an order of final assessment was passed holding that he is liable to pay a sum of Rs.9,79,157/- towards pilferage of power. In an appeal preferred by the petitioner, it was reduced to Rs.5,75,879/-. The petitioner filed W.P.No.12012 of 1999 before this Court challenging the order of appellate authority. The writ petition was dismissed on 23.12.2004. In view of this development, the respondents issued a notice, dated 01.02.2005 requiring the petitioner to pay the balance amount of Rs.2,88,090/- within three days. The same is challenged in this writ petition.

Heard learned counsel for the petitioner and learned Standing Counsel for the respondents.

The only ground urged on behalf of the petitioner is that the respondents, even while continuing the proceedings against the petitioner under the relevant provisions of the terms and conditions of supply, have initiated prosecution and that the trial Court acquitted him through the judgment dated 06-11-2003 and in that view of the matter, the very basis for levy of any amount against the petitioner ceases to exist. It is too difficult to accept this contention. The prosecution of a consumer under the relevant provisions is independent of the proceedings initiated under the relevant provisions of the terms and conditions of supply or the Electricity Act, 2003 (for shot ‘the Act’), as the case may be. Further, Section 147 of the Act is very clear on this aspect. Therefore, this Court is not inclined to accept the contention. Learned counsel for the

petitioner submits that the petitioner is undergoing financial difficulties and adequate time be granted for payment of the demanded amount.

Taking the totality of the circumstances into account, the writ petition is disposed of, granting time up to 31.03.2005 to the petitioner to pay the amount of Rs.2,88,090/-. There shall be no order as to costs.

_____

14.02.2005

Jsu
To

1 The Chief Engineer, Electricity, Hyderabad Zone,

A.P.TRANSCO, Mint Compound, Hyderabad.
2 The Superintending Engineer, Assessments, A.P.TRANSCO, Hyderabad.
3 The Assistant Divisional Engineer, Operations,

A.P.TRANSCO, Siddipet, Medak District.
4 The Assistant Accounts Officer, E.R.O., Siddipet, Medak

District.
5 The Addl.Asst.Engineer, (Operations-I), Town-I, Siddipet,

Medak District.

6 2 CD copies.